APPEAL NO. 040995
FILED JUNE 16, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on March 23, 2004. The hearing officer decided that the appellant (claimant) reached maximum medical improvement (MMI) on May 20, 2003, with a zero percent impairment rating (IR), as certified by the designated doctor appointed by the Texas Workers' Compensation Commission (Commission). The claimant appeals, asserting that the designated doctor's report is contrary to the great weight of the medical evidence. The respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The claimant attached some additional documents to her appeal, in support of her position. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. *See generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would probably produce a different result, nor is it shown that the documents could not have been obtained prior to the hearing below. The additional documents, therefore, do not meet the requirements for newly discovered evidence and will not be considered on appeal.

The hearing officer did not err in determining that the claimant reached MMI on May 20, 2003, with a zero percent IR, as certified by the Commission-appointed designated doctor. Sections 408.122(c) and 408.125(c) provide that the report of the Commission-selected designated doctor is entitled to presumptive weight unless it is contrary to the great weight of the other medical evidence. Whether the great weight of the other medical evidence is contrary to the opinion of the designated doctor is basically a factual determination. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. We view the contrary medical reports as representing a difference in medical opinion, which do not rise to the level of the great weight of medical evidence contrary to the designated doctor's report. Accordingly, we cannot conclude that the hearing officer's MMI/IR determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **a governmental entity self-insured either individually or collectively through DEEP EAST TEXAS SELF-INSURANCE FUND** and the name and address of its registered agent for service of process is

TS
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

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Edward Vilano
Appeals Judge

CONCUR:

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Judy L. S. Barnes
Appeals Judge

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Thomas A. Knapp
Appeals Judge